

## COMMERCE AND NAVIGATION

*Treaty and protocol signed at Washington November 22, 1894*

*Senate advice and consent to ratification February 5, 1895*

*Ratified by the President of the United States February 15, 1895*

*Ratified by Japan February 27, 1895*

*Ratifications exchanged at Washington March 21, 1895*

*Proclaimed by the President of the United States March 21, 1895*

*Entered into force July 17, 1899, except for article XVI, which entered into force March 8, 1897<sup>1</sup>*

*Provisions other than those relating to tariff superseded July 17, 1911, by treaty of February 21, 1911<sup>2</sup>*

*Tariff provisions expired January 26, 1940, upon termination of treaty of February 21, 1911*

29 Stat. 848; Treaty Series 192

### TREATY

The President of the United States of America and His Majesty the Emperor of Japan, being equally desirous of maintaining the relations of good understanding which happily exist between them, by extending and increasing the intercourse between their respective States, and being convinced that this object cannot better be accomplished than by revising the Treaties hitherto existing between the two countries, have resolved to complete such a revision, based upon principles of equity and mutual benefit, and, for that purpose, have named as their Plenipotentiaries, that is to say: The President of the United States of America, Walter Q. Gresham, Secretary of State of the United States, and His Majesty the Emperor of Japan, Jushii Shinichiro Kurino, of the Order of the Sacred Treasure, and of the Fourth Class; who, after having communicated to each other their full powers, found to be in good and due form, have agreed upon and concluded the following Articles:

#### ARTICLE I

The citizens or subjects of each of the two High Contracting Parties shall have full liberty to enter, travel, or reside in any part of the territories

<sup>1</sup> See convention of Jan. 13, 1897 (TS 193), *post*, p. 397.

<sup>2</sup> TS 558, *post*, p. 416.

of the other Contracting Party, and shall enjoy full and perfect protection for their persons and property.

They shall have free access to the Courts of Justice in pursuit and defence of their rights; they shall be at liberty equally with native citizens or subjects to choose and employ lawyers, advocates and representatives to pursue and defend their rights before such Courts, and in all other matters connected with the administration of justice they shall enjoy all the rights and privileges enjoyed by native citizens or subjects.

In whatever relates to rights of residence and travel; to the possession of goods and effects of any kind; to the succession to personal estate, by will or otherwise, and the disposal of property of any sort and in any manner whatsoever which they may lawfully acquire, the citizens or subjects of each Contracting Party shall enjoy in the territories of the other the same privileges, liberties, and rights, and shall be subject to no higher imposts or charges in these respects than native citizens or subjects, or citizens or subjects of the most favored nation. The citizens or subjects of each of the Contracting Parties shall enjoy in the territories of the other entire liberty of conscience, and, subject to the laws, ordinances, and regulations, shall enjoy the right of private or public exercise of their worship, and also the right of burying their respective countrymen, according to their religious customs, in such suitable and convenient places as may be established and maintained for that purpose.

They shall not be compelled, under any pretext whatsoever, to pay any charges or taxes other or higher than those that are, or may be paid by native citizens or subjects, or citizens or subjects of the most favored nation.

The citizens or subjects of either of the Contracting Parties residing in the territories of the other shall be exempted from all compulsory military service whatsoever, whether in the army, navy, national guard, or militia; from all contributions imposed in lieu of personal service; and from all forced loans or military exactions or contributions.

## ARTICLE II

There shall be reciprocal freedom of commerce and navigation between the territories of the two High Contracting Parties.

The citizens or subjects of each of the High Contracting Parties may trade in any part of the territories of the other by wholesale or retail in all kinds of produce, manufactures, and merchandize of lawful commerce, either in person or by agents, singly or in partnership with foreigners or native citizens or subjects; and they may there own or hire and occupy houses, manufactories, warehouses, shops and premises which may be necessary for them, and lease land for residential and commercial purposes, conforming themselves to the laws, police and customs regulations of the country like native citizens or subjects.

They shall have liberty freely to come with their ships and cargoes to all places, ports, and rivers in the territories of the other, which are or may be opened to foreign commerce, and shall enjoy, respectively, the same treatment in matters of commerce and navigation as native citizens or subjects, or citizens or subjects of the most favored nation, without having to pay taxes, imposts or duties, of whatever nature or under whatever denomination levied in the name or for the profit of the Government, public functionaries, private individuals, corporations, or establishments of any kind, other or greater than those paid by native citizens or subjects, or citizens or subjects of the most favored nation.

It is, however, understood that the stipulations contained in this and the preceding Article do not in any way affect the laws, ordinances and regulations with regard to trade, the immigration of laborers, police and public security which are in force or which may hereafter be enacted in either of the two countries.

### ARTICLE III

The dwellings, manufactories, warehouses, and shops of the citizens or subjects of each of the High Contracting Parties in the territories of the other, and all premises appertaining thereto destined for purposes of residence or commerce, shall be respected.

It shall not be allowable to proceed to make a search of, or a domiciliary visit to, such dwellings and premises, or to examine or inspect books, papers, or accounts, except under the conditions and with the forms prescribed by the laws, ordinances and regulations for citizens or subjects of the country.

### ARTICLE IV

No other or higher duties shall be imposed on the importation into the territories of the United States of any article, the produce or manufacture of the territories of His Majesty the Emperor of Japan, from whatever place arriving; and no other or higher duties shall be imposed on the importation into the territories of His Majesty the Emperor of Japan of any article, the produce or manufacture of the territories of the United States, from whatever place arriving, than on the like article produced or manufactured in any other foreign country; nor shall any prohibition be maintained or imposed on the importation of any article, the produce or manufacture of the territories of either of the High Contracting Parties, into the territories of the other, from whatever place arriving, which shall not equally extend to the importation of the like article, being the produce or manufacture of any other country. This last provision is not applicable to the sanitary and other prohibitions occasioned by the necessity of protecting the safety of persons, or of cattle, or of plants useful to agriculture.

## ARTICLE V

No other or higher duties or charges shall be imposed in the territories of either of the High Contracting Parties on the exportation of any article to the territories of the other than such as are, or may be, payable on the exportation of the like article to any other foreign country; nor shall any prohibition be imposed on the exportation of any article from the territories of either of the two High Contracting Parties to the territories of the other which shall not equally extend to the exportation of the like article to any other country.

## ARTICLE VI

The citizens or subjects of each of the High Contracting Parties shall enjoy in the territories of the other exemption from all transit duties, and a perfect equality of treatment with native citizens or subjects in all that relates to warehousing, bounties, facilities, and drawbacks.

## ARTICLE VII

All articles which are or may be legally imported into the ports of the territories of His Majesty the Emperor of Japan in Japanese vessels may likewise be imported into those ports in vessels of the United States, without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in Japanese vessels; and, reciprocally, all articles which are or may be legally imported into the ports of the territories of the United States in vessels of the United States may likewise be imported into those ports in Japanese vessels, without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in vessels of the United States. Such reciprocal equality of treatment shall take effect without distinction, whether such articles come directly from the place of origin or from any other place.

In the same manner, there shall be perfect equality of treatment in regard to exportation, so that the same export duties shall be paid, and the same bounties and drawbacks allowed, in the territories of either of the High Contracting Parties on the exportation of any article which is or may be legally exported therefrom, whether such exportation shall take place in Japanese vessels or in vessels of the United States, and whatever may be the place of destination, whether a port of either of the High Contracting Parties or of any third Power.

## ARTICLE VIII

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties of whatever nature, or under whatever denomination levied in the name or for the profit of Government, public functionaries, private individuals, corporations, or establishments of any kind, shall be imposed in the ports of the territories of either country upon the

vessels of the other country which shall not equally and under the same conditions be imposed in the like cases on national vessels in general or vessels of the most favored nation. Such equality of treatment shall apply reciprocally to the respective vessels, from whatever port or place they may arrive, and whatever may be their place of destination.

#### ARTICLE IX

In all that regards the stationing, loading, and unloading of vessels in the ports, basins, docks, roadsteads, harbors or rivers of the territories of the two countries, no privilege shall be granted to national vessels which shall not be equally granted to vessels of the other country; the intention of the High Contracting Parties being that in this respect also the respective vessels shall be treated on the footing of perfect equality.

#### ARTICLE X

The coasting trade of both the High Contracting Parties is excepted from the provisions of the present Treaty, and shall be regulated according to the laws, ordinances and regulations of the United States and Japan, respectively. It is, however, understood that citizens of the United States in the territories of His Majesty the Emperor of Japan and Japanese subjects in the territories of the United States, shall enjoy in this respect the rights which are, or may be, granted under such laws, ordinances and regulations to the citizens or subjects of any other country.

A vessel of the United States laden in a foreign country with cargo destined for two or more ports in the territories of His Majesty the Emperor of Japan, and a Japanese vessel laden in a foreign country with cargo destined for two or more ports in the territories of the United States, may discharge a portion of her cargo at one port, and continue her voyage to the other port or ports of destination where foreign trade is permitted, for the purpose of landing the remainder of her original cargo there, subject always to the laws and customs regulations of the two countries.

The Japanese Government, however, agrees to allow vessels of the United States to continue, as heretofore, for the period of the duration of the present Treaty, to carry cargo between the existing open ports of the Empire, excepting to or from the ports of Osaka, Niigata, and Ebisuminato.

#### ARTICLE XI

Any ship-of-war or merchant vessel of either of the High Contracting Parties which may be compelled by stress of weather, or by reason of any other distress, to take shelter in a port of the other, shall be at liberty to refit therein, to procure all necessary supplies, and to put to sea again, without paying any dues other than such as would be payable by national vessels. In case, however, the master of a merchant vessel should be under the neces-

sity of disposing of a part of his cargo in order to defray the expenses, he shall be bound to conform to the regulations and tariffs of the place to which he may have come.

If any ship-of-war or merchant-vessel of one of the High Contracting Parties should run aground or be wrecked upon the coasts of the other, the local authorities shall inform the Consul General, Consul, Vice-Consul, or Consular Agent of the district, of the occurrence, or if there be no such consular officers, they shall inform the Consul General, Consul, Vice-Consul, or Consular Agent of the nearest district.

All proceedings relative to the salvage of Japanese vessels, wrecked or cast on shore in the territorial waters of the United States, shall take place in accordance with the laws of the United States, and, reciprocally, all measures of salvage relative to vessels of the United States, wrecked or cast on shore in the territorial waters of His Majesty the Emperor of Japan, shall take place in accordance with the laws, ordinances, and regulations of Japan.

Such stranded or wrecked ship or vessel, and all parts thereof, and all furniture and appurtenances belonging thereunto, and all goods and merchandize saved therefrom, including those which may have been cast into the sea, or the proceeds thereof, if sold, as well as all papers found on board such stranded or wrecked ship or vessel, shall be given up to the owners or their agents, when claimed by them. If such owners or agents are not on the spot, the same shall be delivered to the respective Consuls General, Consuls, Vice-Consuls, or Consular Agents upon being claimed by them within the period fixed by the laws, ordinances and regulations of the country, and such Consular officers, owners, or agents shall pay only the expenses incurred in the preservation of the property, together with the salvage or other expenses which would have been payable in the case of the wreck of a national vessel.

The goods and merchandize saved from the wreck shall be exempt from all the duties of the Customs unless cleared for consumption, in which case they shall pay the ordinary duties.

When a vessel belonging to the citizens or subjects of one of the High Contracting Parties is stranded or wrecked in the territories of the other, the respective Consuls General, Consuls, Vice-Consuls, and Consular Agents shall be authorized, in case the owner or master, or other agent of the owner, is not present, to lend their official assistance in order to afford the necessary assistance to the citizens or subjects of the respective States. The same rule shall apply in the case the owner, master, or other agent is present, but requires such assistance to be given.

## ARTICLE XII

All vessels which, according to United States law, are to be deemed vessels of the United States, and all vessels which, according to Japanese law, are to

be deemed Japanese vessels, shall, for the purposes of this Treaty, be deemed vessels of the United States and Japanese vessels, respectively.

#### ARTICLE XIII

The Consuls General, Consuls, Vice-Consuls, and Consular Agents of each of the High Contracting Parties, residing in the territories of the other, shall receive from the local authorities such assistance as can by law be given to them for the recovery of deserters from the vessels of their respective countries.

It is understood that this stipulation shall not apply to the citizens or subjects of the country where the desertion takes place.

#### ARTICLE XIV

The High Contracting Parties agree that, in all that concerns commerce and navigation, any privilege, favor or immunity which either High Contracting Party has actually granted, or may hereafter grant, to the Government, ships, citizens or subjects of any other State, shall be extended to the Government, ships, citizens or subjects of the other High Contracting Party, gratuitously, if the concession in favor of that other State shall have been gratuitous, and on the same or equivalent conditions if the concession shall have been conditional; it being their intention that the trade and navigation of each country shall be placed, in all respects, by the other upon the footing of the most favored nation.

#### ARTICLE XV

Each of the High Contracting Parties may appoint Consuls General, Consuls, Vice-Consuls, Pro-Consuls, and Consular Agents, in all the ports, cities, and places of the other, except in those where it may not be convenient to recognize such officers.

This exception, however, shall not be made in regard to one of the High Contracting Parties without being made likewise in regard to every other Power.

The Consuls General, Consuls, Vice-Consuls, Pro-Consuls, and Consular Agents may exercise all functions, and shall enjoy all privileges, exemptions, and immunities which are, or may hereafter be, granted to Consular officers of the most favored nation.

#### ARTICLE XVI

The citizens or subjects of each of the High Contracting Parties shall enjoy in the territories of the other the same protection as native citizens or subjects in regard to patents, trade-marks and designs, upon fulfilment of the formalities prescribed by law.

## ARTICLE XVII

The High Contracting Parties agree to the following arrangement:

The several Foreign Settlements in Japan shall, from the date this Treaty comes into force, be incorporated with the respective Japanese Communes, and shall thenceforth form part of the general municipal system of Japan. The competent Japanese Authorities shall thereupon assume all municipal obligations and duties in respect thereof, and the common funds and property, if any, belonging to such Settlements shall at the same time be transferred to the said Japanese Authorities.

When such incorporation takes place existing leases in perpetuity upon which property is now held in the said Settlements shall be confirmed, and no conditions whatsoever other than those contained in such existing leases shall be imposed in respect of such property. It is, however, understood that the Consular Authorities mentioned in the same are in all cases to be replaced by the Japanese Authorities. All lands which may previously have been granted by the Japanese Government free of rent for the public purposes of the said Settlements shall, subject to the right of eminent domain, be permanently reserved free of all taxes and charges for the public purposes for which they were originally set apart.

## ARTICLE XVIII

This Treaty shall, from the date it comes into force, be substituted in place of the Treaty of Peace and Amity concluded on the 3d day of the 3d month of the 7th year of Kayei, corresponding to the 31st day of March, 1854;<sup>3</sup> the Treaty of Amity and Commerce concluded on the 19th day of the 6th month of the 5th year of Ansei, corresponding to the 29th day of July, 1858;<sup>4</sup> the Tariff Convention concluded on the 13th day of the 5th month of the 2nd year of Keio, corresponding to the 25th day of June, 1866;<sup>5</sup> the Convention concluded on the 25th day of the 7th month of the 11th year of Meiji, corresponding to the 25th day of July, 1878,<sup>6</sup> and all Arrangements and Agreements subsidiary thereto concluded or existing between the High Contracting Parties; and from the same date such Treaties, Conventions, Arrangements and Agreements shall cease to be binding, and, in consequence, the jurisdiction then exercised by Courts of the United States in Japan and all the exceptional privileges, exemptions and immunities then enjoyed by citizens of the United States as a part of, or appurtenant to such jurisdiction, shall absolutely and without notice cease and determine, and thereafter all such jurisdiction shall be assumed and exercised by Japanese Courts.

---

<sup>3</sup> TS 183, *ante*, p. 351.

<sup>4</sup> TS 185, *ante*, p. 362.

<sup>5</sup> TS 188, *ante*, vol. 1, p. 18.

<sup>6</sup> TS 189, *ante*, p. 377.



## ARTICLE XIX

This Treaty shall go into operation on the 17th day of July, 1899, and shall remain in force for the period of twelve years from that date.

Either High Contracting Party shall have the right, at any time thereafter to give notice to the other of its intention to terminate the same, and at the expiration of twelve months after such notice is given this Treaty shall wholly cease and determine.

## ARTICLE XX

This Treaty shall be ratified, and the ratifications thereof shall be exchanged, either at Washington or Tokio, as soon as possible and not later than six months after its signature.

In witness whereof the respective Plenipotentiaries have signed the present Treaty in duplicate and have thereunto affixed their seals.

Done at the City of Washington the 22d day of November, in the eighteen hundred and ninety-fourth year of the Christian era, corresponding to the 22d day of the 11th month of the 27th year of Meiji.

|                   |        |
|-------------------|--------|
| WALTER Q. GRESHAM | [SEAL] |
| SHINICHIRO KURINO | [SEAL] |

## PROTOCOL

The Government of the United States of America and the Government of His Majesty the Emperor of Japan, deeming it advisable in the interests of both countries to regulate certain special matters of mutual concern, apart from the Treaty of Commerce and Navigation signed this day, have, through their respective Plenipotentiaries, agreed upon the following stipulations:

1. It is agreed by the Contracting Parties that one month after the exchange of the ratifications of the Treaty of Commerce and Navigation signed this day the Import Tariff now in operation in Japan in respect of goods and merchandise imported into Japan by citizens of the United States shall cease to be binding. From the same date the General Statutory Tariff of Japan shall, subject to the provisions of Article IX of the Treaty of March 31, 1854, at present subsisting between the Contracting Parties, so long as said Treaty remains in force, and, thereafter, subject to the provisions of Article IV and Article XIV of the Treaty signed this day, be applicable to goods and merchandise being the growth, produce or manufacture of the Territories of the United States upon importation into Japan.

But nothing contained in this Protocol shall be held to limit or qualify the right of the Japanese Government to restrict or to prohibit the importation of adulterated drugs, medicines, food or beverages; indecent or obscene

prints, paintings, books, cards, lithographic or other engravings, photographs or any other indecent or obscene articles; articles in violation of the patent, trade-mark or copy-right laws of Japan; or any other article which for sanitary reasons, or in view of public security or morals, might offer any danger.

2. The Japanese Government, pending the opening of the country to citizens of the United States, agrees to extend the existing passport system in such a manner as to allow citizens of the United States, on the production of a certificate of recommendation from the Representative of the United States at Tokio, or from any of the Consuls of the United States at the open ports of Japan, to obtain upon application passports available for any part of the country and for any period not exceeding twelve months, from the Imperial Japanese Foreign Office in Tokio, or from the Chief Authorities in the Prefecture in which an open port is situated, it being understood that the existing Rules and Regulations governing citizens of the United States who visit the interior of the Empire are to be maintained.

3. The undersigned Plenipotentiaries have agreed that this Protocol shall be submitted to the two High Contracting Parties at the same time as the Treaty of Commerce and Navigation signed this day, and that when the said Treaty is ratified the agreements contained in the Protocol shall also equally be considered as approved, without the necessity of a further formal ratification.

It is agreed that this Protocol shall terminate at the same time the said Treaty ceases to be binding.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed thereto their seals.

Done at Washington the 22d day of November in the eighteen hundred and ninety-fourth year of the Christian era, corresponding to the the 22d day of the 11th month of the 27th year of Meiji.

|                   |        |
|-------------------|--------|
| WALTER Q. GRESHAM | [SEAL] |
| SHINICHIRO KURINO | [SEAL] |